

Application Serial No. 10/750,439  
Amendment dated November 7, 2007  
Reply to Office Action dated August 7, 2007

### **REMARKS/ARGUMENTS**

Claims 1, 4, and 6-11 are pending. Claims 1, 4, and 6-11 are rejected.

### **Claim Rejections - 35 U.S.C. § 103**

Claims 1, 4, and 6-11 are rejected under 35 U.S.C. § 103(a) as being obvious over U.S. Patent No. 7,131,973 to Hoffman ("Hoffman '973") in view of U.S. Patent Application Publication No. 2004/0039450 to Griner et al ("Griner '450").

Applicants respectfully submit that the rejection of Claims 1, 4, and 6-11 is not proper due to the disqualification of Griner '450 as a proper reference under 35 U.S.C. § 103. The publication date of Griner '450 is after the filing date of the present application. As such, Griner '450 is being cited as prior art under 35 U.S.C. § 102(e). Griner '450 is assigned to Zimmer Technology, Inc. as indicated by the assignment recorded at reel/frame: 015552\0215. The present application is also assigned to Zimmer Technology, Inc. as indicated by the assignment recorded at reel/frame: 014874\0400. Because the subject matter of Griner '450 and the claimed invention were, at the time the claimed invention was made, owned by Zimmer Technology, Inc., or subject to an obligation of assignment to Zimmer Technology, Inc., in accordance with 35 U.S.C. § 103(c)(1), Griner '450 may not be used as prior art under 35 U.S.C. § 103(a).

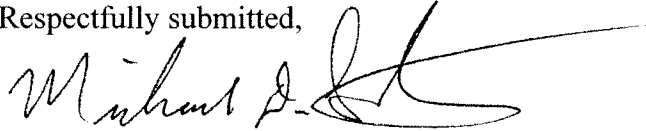
It is believed that the above represents a complete response to the Official Action and reconsideration is requested. Specifically, Applicant respectfully submits that the application is in condition for allowance and respectfully requests allowance thereof.

In the event Applicant has overlooked the need for an extension of time or payment of fee, Applicant hereby petitions therefor and authorizes that any charges be made to Deposit Account No. 02-0385, Baker & Daniels.

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Should the Examiner have any further questions regarding any of the foregoing, he is respectfully invited to telephone the undersigned at 260-424-8000.

Respectfully submitted,



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MDS/clm

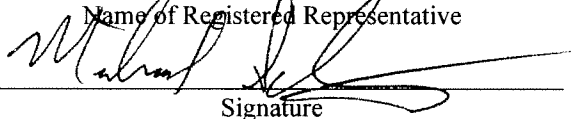
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CERTIFICATION OF ELECTRONIC FILING

I hereby certify that this correspondence is being electronically filed with: Commissioner for Patents on November 7, 2007.

MICHAEL D. SCHWARTZ, REG. NO. 44,326

Name of Registered Representative



Signature

November 7, 2007

Date